

Ordinance 2015-10

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AN ORDINANCE AMENDING CHAPTER 14, ENTITLED "PROPERTY MAINTENANCE" OF THE
"REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY"
ADDING A NEW SECTION TO ESTABLISH STANDARDS FOR THE REGISTRATION AND
MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN
FORECLOSURE BY CREDITORS**

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, P.L. 2014, c. 35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the Borough of Hightstown to establish a mechanism to identify and track vacant and abandoned residential properties in the Borough which are in foreclosure, to establish standards for the maintenance of those properties and to enforce those standards of maintenance.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Hightstown, County of Mercer and State of New Jersey as follows:

Section 1. The Revised General Ordinances of the Borough of Hightstown are hereby amended by the addition of a new section to Chapter 14 Property Maintenance, to read as follows:

**Registration and Maintenance of Vacant and Abandoned Residential Properties in
Foreclosure**

a. Definitions

1. "Creditor" means a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c.53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17, as amended from

time to time) and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

2. “Vacant and Abandoned” residential property means, consistent with section 1 of P.L. 2010, c.70 (C.2A:50-73), residential real estate , where a notice of violation has been issued pursuant to Paragraph e. 1 of this Section and subsection b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s). Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant and at least two of the following conditions exist:
 - (a) overgrown or neglected vegetation;
 - (b) the accumulation of newspapers, circulars, flyers or mail on the property;
 - (c) disconnected gas, electric, or water utility services to the property;
 - (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
 - (e) the accumulation of junk, litter, trash or debris on the property;
 - (f) the absence of window treatments such as blinds, curtains or shutters;
 - (g) the absence of furnishings and personal items;
 - (h) statements of neighbors, association management, delivery persons, or government employees indicating that the residence is vacant and abandoned;
 - (i) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
 - (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
 - (k) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

(l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

(m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;

(n) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(o) any other reasonable indicia of abandonment.

b. Registration of Vacant and Abandoned Properties

1. A Creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the Vacant and Abandoned property, whichever is later; or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the municipal clerk on forms provided by the Borough for such purposes. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the Vacant and Abandoned property.
2. Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Borough shall be registered separately.
3. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty-one (21) years or older, designated by the Creditor as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such Creditor in connection with the enforcement of any applicable code.

4. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the Abandoned and Vacant property. The individual or representative of the firm responsible for maintaining the Abandoned and Vacant property shall be available by telephone or in person on a twenty-four-hour per day, seven-day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
5. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The Creditor shall be required to renew the registration annually as long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Paragraph c. of this Section for each Vacant and Abandoned property registered.
6. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.
7. The Creditor shall notify the municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the municipal clerk for such purpose.
8. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Creditor.

c. Fee Schedule

The initial registration fee for each Vacant and Abandoned property under the provisions of this Section shall be five hundred (\$500.00) dollars. The fee for the first annual renewal shall be one thousand five hundred (\$1,500.00) dollars and the fee for the second annual renewal shall be three thousand (\$3,000.00) dollars. The fee for any subsequent annual renewal beyond the second renewal shall be five thousand

(\$5,000.00) dollars.

d. Creditor Responsibility for Vacant and Abandoned Properties

1. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Borough shall be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Section.
2. Where a Creditor is located out-of-state, the Creditor shall be responsible for appointing an in-State representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of Paragraph d. 1 of this Section. Notice of said representative or agent shall be provided to the municipal clerk pursuant to Paragraph b. 3 and 4 of this Section and pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51).

e. Notice

1. The enforcement officers designated in this Section shall be authorized to issue a notice to a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough, if the enforcement officer determines that the Creditor has violated this Section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property.

Where a Creditor is an out-of-State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to Paragraph d. 2 of this Section and paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51).

2. The notice referenced in Paragraph e. 1 of this Section shall require the Creditor to correct the violation(s) within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.
3. The issuance of a notice pursuant to Paragraph e. 1 of this Section shall constitute proof that a residential property is Vacant and Abandoned for the purposes of this Section.

f. Enforcement Officers

The duty of administering and enforcing the provisions of this Section is conferred upon the municipal clerk, construction official, zoning officer, housing officer, health officer, Borough police, and any other duly appointed representatives.

g. Violations and Penalties

1. A Creditor subject to this Section that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Section shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following the receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.
2. An out-of-state Creditor subject to this Section that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to this Section shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a Creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
3. A Creditor subject to this Section that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to register a Vacant and Abandoned property pursuant to Paragraph b. of this Section shall be subject to a fine not exceeding two thousand (\$2,000.00) dollars. Any fines imposed on a Creditor under this Paragraph shall commence 11 days following receipt of notice from the Borough pursuant to Paragraph b. 1 of this Section.

4. No less than 20 percent of any money collected by the Borough pursuant to this Section shall be utilized by the Borough for municipal code enforcement purposes.

Section 2. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4. This ordinance shall take effect 20 days after final passage and publication according to law.

Introduction: May 18, 2015

Adoption:

ATTEST:

DEBRA L. SOPRONYI
MUNICIPAL CLERK

LAWRENCE D. QUATTRONE
MAYOR